IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2233 OF 2005

Dr. P.M.Kedia & Anr. ...Petitioner

Versus

State of Maharashtra & Anr ...Respondents

ALONGWITH
CRIMINAL WRIT PETITION NO.2234 OF 2005

Shri.Arun Kedia & Anr. ...Petitioner

Versus

State of Maharashtra & Anr ...Respondents

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Mr. R.M.Kedia i/b A.H. Punwani, Advocate for Petitioners

Mr. S.R.Shinde, APP in W.P. No.2233/05.
Mr. V.B. KOnde Deshmukh, APP in W.P. No.2234/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 20TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of Complaint No.6185/S/2005 (old case No.42/03 and

Complaint No.6186/S/2005 (old case No.43/03) which are pending in the Court of learned M.M. 33rd Court, Ballard Pier, Mumbai. In the said cases, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap V. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for

a period of four weeks from today.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petitions are disposed of.

7. Office to issue an authenticated copy of this order to the parties.

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